

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9812 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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P C PARMAR

Versus

DISTRICT JUDGE, RAJKOT & 1

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Appearance:

MR MANOJ N POPAT for Petitioners

MR PARESH UPADHYAY for Respondent No.1 & 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/09/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the parties and perused the pleadings.

#. It is true that under the advertisement dated 12.1.82, applications were invited for the post of English and Gujarati Stenographers, Grade-II, and on selection of petitioners, they were given appointments as

Stenographers, Grade-III, i.e. in the lower pay scale. However, in reply to the special civil application filed by respondent No.2, I find sufficient justification for giving of these appointments to the petitioners as Stenographer, Grade-III. The reasons are given out that out of the 200 total posts of Stenographer, Grade II, 145 posts were temporarily downgraded as Stenographer, Grade-III, and classified as Gujarati Stenographers. The petitioners have accepted appointments without any protest and further, they have not challenged that order of giving them appointments as Stenographer, Grade-III even prior to 12th August, 1991 or thereafter, till this special civil application came to be filed in this Court on 19th April, 1994. The respondent No.2, with effect from 12th August, 1991, upgraded the posts to that of Stenographer, Grade-II, and even thereafter, the petitioners waited to challenge the action of the year 1982 of the respondents till 1994. So taking into consideration the totality of the facts of this case, the petitioners have no case on merits as well as the challenge to the action of respondent No.2 suffers from the vice of delay and latches. The respondent No.2 has all the competence to lower down the grade of the post and it has been lowered down before the appointments were given and to which, no exception can be taken. The petitioners have no legal or fundamental right for appointment as Grade-II Stenographers for the reasons, for which I am satisfied cogent and satisfied, that the respondent No.2 has lowered down the post and on lowering down the post, the petitioners have accepted the appointments. Merely on invitation of application for Stenographer, Grade-II, and even on their selection for this post, the petitioners have not acquired any indefeasible right of appointment as Gujarati Stenographer, Grade-II as for the satisfactory reason the respondent No.2 is within its competence even not to make appointments or make appointments on down graded posts. It is a case where none of the legal or fundamental rights of the petitioner are being infringed and more so, from August, 1991, they are getting higher pay-scale.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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